IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6566 of 2007()

CRIME NO. 141/07 OF VENMONY POLICE STATION

PETITIONERS/ACCUSED

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1. P.R.NARENDRAN, PUTHENVEETTIL (NAYANAM)
   KODUKULATH KAROD MURI, VENMONI VILLAGE
   KOZHUVALLOOR P.O., CHENGANNUR TALUK.

2. SANTHOSH.C
   PUTHENVEETTIL (NAYANAM)
   KODUKULATH KAROD MURI, VENMONI VILLAGE
   KOZHUVALLOOR P.O., CHENGANNUR TALUK.

BY ADV. SRI.K.RAVEENDRAN
SRI.ANIL KUMAR M.SIVARAMAN

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA
   REPRESENTED BY THE PROSECUTOR
   HIGH COURT OF KERALA,ERNAKULAM

2. THE DEPUTY SUPERINTENDENT OF POLICE
   CHENGANNUR.

3. THE SUB INSPECTOR OF POLICE, VENMONY

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6566 of 2007

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Dated this the 5th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations that they have committed the offence punishable under Section 420 I.P.C. The crux of the allegations raised against the petitioners is that they had allegedly induced three persons, who lodged the F.I. statement, as well as many others similarly placed to part with amounts exceeding Rs. 1 lakh each on the promise that jobs shall be furnished to them abroad. Their passports were taken, but they were not returned. Money was also not returned. Employment was not provided. The totality of circumstances would indicate that the very motive of the petitioners even at the initial stage was to induce them to part with money fraudulently. Accordingly complaint was filed by the defacto complainant before the Dy.S.P., which was forwarded to the police and crime was registered on 25.9.2007.

Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They have no culpable responsibility at all. The petitioners have a grievance that crimes have been committed against them by the defacto complainant and others. Accordingly a private complaint was filed by the first petitioner against the defacto complainant and others before the learned Magistrate, which complaint has been referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. In these circumstances it is prayed that directions under Section 438 Cr.P.C. may be issued in favour of the petitioners.

3. The learned Prosecutor was requested to take instructions. He submits that long after the present dispute arose, a complaint has been filed before the learned Magistrate on 29.9.2007. That complaint was obviously filed after the crime was registered against the petitioners. Investigation is now complete in that crime. It has been realised that the said allegations are all false. Steps are being taken to file a

negative final report in that crime, which was only a retaliation against the allegations raised in the present case. The totality of inputs suggest that the petitioners had only the intention of fraudulently receiving amounts from the defacto complaint and others. They had no intention to perform their promise. In these circumstances the petitioners have to be arrested and interrogated. Attempts are to be made to trace the passports and the place where the ill-gotten amount is concealed. There are no circumstances justifying the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioners, submit the learned Prosecutor.

4. I have considered all the relevant inputs. At the moment and with the available inputs it is not possible to come to the conclusion that the allegations are all false and are raised with vexatious or malafide intent. This I am satisfied is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail.

5. This application is accordingly dismissed. Needless to say, if the petitioners appear before the Investigating Officer or the learned Magistrate having jurisdiction and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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